IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITIONS NO.37/07 & 126/07

Smt. Bella Almeida Colaco and anr. ..... Petitioners.

V/s.

Shri Mariano Costa and others. ..... Respondents.

Mr. Sudesh Usgaonkar, Advocate for the petitioners.

Mr. Vivek Rodrigues, Advocate for the respondents No.1 & 3 in Writ Petition No. 126/07.

Respondents in Writ Petition No.37/07 served, but none appears.

CORAM : R.S. MOHITE, J.

DATE : AUGUST 30, 2007.

P.C.

In both these writ petitions, a grievance is made that a rejoinder was not allowed in the execution proceedings. It appears that there is a decree of permanent injunction. It is the contention of the original plaintiffs who have filed the execution proceedings that the decree prohibits any construction on the suit property. The contention of the defendants is that the decree does not prohibit them from erecting the structure which is now sought to be demolished. Since this issue will have to be decided on merits, it will not be proper to prohibit filing of a rejoinder. The relevance of the

contents of the rejoinder can be taken into account by the trial Court while deciding the issues on merits. Both the petitions are allowed in terms of prayer clauses (a) and (b). The trial Court will decide the issues on its on merits without being influenced in any way by what is stated in this order. Both the writ petitions stand disposed off.

R.S. MOHITE, J.

ssm